

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
GREENEVILLE

REBECCA LYNN CHESSER

V.

CAROLYN W. COLVIN,
Acting Commissioner of Social Security

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NO. 2:15-CV-61

REPORT AND RECOMMENDATION

This matter has been referred to the United States Magistrate Judge under the standing orders of the Court for a report and recommendation regarding the Motion [Doc. 12] for an award of costs to the plaintiff under the Equal Access to Justice Act (“EAJA”), 28 U. S.C. § 2412(d)(1)(A). Plaintiff does not seek attorney fees or expenses, only the filing fee paid at the commencement of this action. The Motion is ripe for decision under the Local Rules of this Court, and no objection has been filed.

The plaintiff’s case was recently remanded, upon a joint motion of the parties, by the District Judge to the defendant for further administrative review.

In order to be entitled to an award of costs under the Equal Access to Justice Act, all of the conditions set forth in 28 U.S.C. § 2412(d)(1)(A), (B) must be met. These are that:

- (1) the party seeking the fees is the “prevailing party” in a civil action brought by or against the U.S.,
- (2) an application for such fees, including an itemized justification for the amount requested, is timely filed within 30 days of final judgment in the action,
- (3) the position of the government is not substantially justified and
- (4) no special circumstances make an award unjust.

The Magistrate Judge finds that all of these factors are met in this case.

The plaintiff seeks recovery of the filing fee in the amount of \$400.00. The request is reasonable.

It is recommended that the plaintiff's Motion be GRANTED, and that plaintiff be awarded costs in the amount of \$400.00.¹

Respectfully recommended:

s/ Clifton L. Corker
United States Magistrate Judge

¹Any objections to this report and recommendation must be filed within fourteen (14) days of its service or further appeal will be waived. Thomas v. Arn, 474 U.S. 140 (1985); United States v. Walters, 638 F.2d 947-950 (6th Cir. 1981); 28 U.S.C. § 636(b)(1)(B) and (C).